



Appeal Decision

Site visit made on 26 March 2019

by Mike Worden BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st May 2019

Appeal Ref: APP/J1860/W/18/3216416

50-58 Wyche Road, Malvern, WR14 4EG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr James Milne against the decision of Malvern Hills District Council.
 - The application Ref 17/01044/FUL, dated 22 June 2017, was refused by notice dated 18 May 2018.
 - The development proposed is demolition of existing buildings and the erection of 12 No. 2 bedroom apartments and 2 No. 3 bedroom penthouse apartments with off street parking.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are the effect of the proposed development on:
 - the character and appearance of the Malvern Wells Conservation Area; and,
 - the landscape qualities of the Malvern Hills Area of Outstanding Natural Beauty.

Reasons

Effect on the character and appearance of the Malvern Wells Conservation Area

3. The appeal site is a row of terraced brick and render buildings set on the hillside alongside Wyche Road, together with a garden area to their side. The existing buildings are a mix of two and three storeys. The hillside is steep and Wyche Road turns sharply near to the appeal site to run over the ridge of the hill through the Wyche cutting. There are extensive views out across towards the east from the appeal site. The appeal site is within the Malvern Wells Conservation Area (the Conservation Area) and within the Malvern Hills Area of Outstanding Natural Beauty.
4. The east side of the hill is wooded and is characterised by numerous buildings scattered across the slope. These are in the main properties which vary in height, but generally are up to three storeys and which are located in an irregular pattern on the slope. This provides a distinct character when the hillside is viewed from the residential areas of the town lower down.

5. The Conservation Area is focussed on the development along the eastern side of the hill and some areas lower down such as Malvern Common. The buildings in the immediate area of the Wyche cutting are generally small scale and domestic in character, although their placing on the hillside on its various winding roads presents a varied mix of elevations, rooflines and interrelationships.
6. On the south side of the appeal site there is a public house which extends around the tight bend on Wyche Road. Behind it and the appeal site there are a number of different sized houses set on the slope. On the northern side of the appeal site there are some cottages and a more modern detached dwelling. These sit above a grass bank above the road. Either side of the Wyche cutting there are peaks along the ridge, but these lie outside of the Conservation Area. The character of the Conservation Area therefore appears to be focussed on the roads which wind their way up the hill, and the individual and groups of mainly dwellings which sit alongside and between them on the wooded slope.
7. The proposed development would demolish the existing buildings and replace them with a block of 14 apartments. The proposed development would be arranged over four storeys and tiered to utilise the slope of the hillside behind. It would be around 36m in width at ground floor level, but extend wider on the northern side at higher levels to fit within the topography and boundary of the appeal site at that point. The proposal would incorporate roof terraces within the set back. Car parking would be provided at ground floor level although two spaces would be created at the rear and accessed via an existing access track which runs higher up the slope behind. The proposed development would incorporate significant areas of glazing on its frontage, with flats being single aspect.
8. The existing buildings are of Victorian origin and are varied in their design and style. They generally incorporate shop front type windows at ground floor level. Although from my observations they were not being used as shops, and there appeared to be one unit in use as an office, they nevertheless have a traditional appearance of ground floor commercial use which contributes to the character of the streetscene. The Council does not object to their demolition provided the replacement buildings would be appropriate to the Conservation Area.
9. The northernmost existing building does not incorporate a glazed frontage at street level, but a door and garage door. However I consider that the replacement of the mainly glazed ground floor frontages of the existing buildings with a rather solid elevation with dominant grilles at street level would significantly harm the character and appearance of the streetscene in this part of the Conservation Area despite vehicle and pedestrian access points.
10. The existing buildings incorporate different designs and window styles at first and second floor levels. There are two prominent bays and a number of rectangular windows. There is a roof terrace at second floor level on one of the buildings. However the proposed development would introduce a significant amount of full height glazing at first floor level and above to the streetscene. I consider that this would be at odds with the buildings it would replace but also with the window pattern of the adjacent public house and the dwellings on the northern side.

11. The existing buildings although partly linked, form a non-uniform row. The proposed development would introduce a large rectangular form of development which would run the full width of the existing buildings. Although stepped back it would form a large single, solid block which would be at odds with the form of the buildings either side, and the form and scale of other buildings along this part of Wyche Road, or those set behind it. From my observations, the existing buildings within the vicinity of the appeal site all tend to be individual dwellings, and no large group of apartments or building of comparable size in the immediate vicinity of the Wyche cutting has been brought to my attention.
12. The scattering of individual buildings is a feature of this part of the Conservation Area and I consider that the scale, mass, bulk and uniformity of the proposed development, along with the ground floor car parking elevations, and the extent of glazing, would cause the proposed development to jar significantly with its surroundings. I have taken into account the design of the proposal which breaks up the scheme into units and includes terraces and dividing walls as well as the set back, but I still consider that it would appear as rather a solid and dominant form of development from the street and from further afield.
13. In reaching this view I have taken account of the comments of the design review panel referred to me. I do not have details of the full report, recommendations or what evidence the panel took into account, but the comments nonetheless do not alter my concerns. The role of a design review panel is to provide independent advice on the design of proposed developments, and I have placed limited weight on the brief comments referred to me in reaching my decision. I have also noted that the Council's Conservation Officer considered that the proposed building was of good design, but she follows it immediately in her comments by saying that the design would not be appropriate for this particular location and that she objected to the proposal overall. I have noted further that the Council considers that a contemporary design would not be inappropriate at this location but that it objects to this particular design at this location.
14. For the reasons set out above I conclude that the proposal would conflict with the nature, form, and scale of development either side, would be out of scale with the surrounding buildings and would cause significant harm to the character and appearance of the Conservation Area. This would be contrary to Policy SWDP6 of the *South Worcestershire Development Plan 2016* (the SWDP) which seeks to conserve and enhance the historic environment, SWDP 21 of the SWDP which seeks developments of high design quality including complementing the character of the area, and SWDP24 of the SWDP which seeks the management of the historic environment.
15. I also conclude that the proposal would conflict with the *South Worcestershire Design Guide Supplementary Planning Document* (the SPD) which sets out overarching design principles, and in particular paragraph 6.4 which relates to the historic environment. Having regard to Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I consider that the proposal would not preserve or enhance the character or appearance of the Conservation Area.

Effect on the Malvern Hills Area of Outstanding Natural Beauty.

16. The Malvern Hills Area of Outstanding Natural Beauty (the AONB) covers over 100 square kilometres across three counties along the Malvern Hills, their slopes and flatter land either side.
17. Paragraph 172 of the National Planning Policy Framework (the Framework) indicates that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty. The parties agree that the proposal would not constitute major development for the purposes of paragraph 172 of the Framework.
18. Policy SWDP23 of the SWDP sets out three requirements for development proposals within the AONB. These are that the proposal would not have a detrimental impact on the natural beauty of the AONB; that it would conserve and enhance the special qualities of the AONB; and, that it would have regard to AONB management plans.
19. The appellant has submitted a Landscape Visual Impact Assessment (LVIA). That indicates that the proposal would have an adverse moderate impact from a limited number of viewing points. From the evidence provided, the proposal would not be visible from the ridge of the hill behind where the Worcestershire Beacon is a popular walk and has impressive views out to the distance. However, the proposal would be visible from the areas below the hill to the east. I consider that due to its bulk, scale, and uniform nature it would appear as a larger building than those other scattered buildings on the slope. I consider that the scattering of individual dwellings within the wooded slope is a key part of the character of the AONB as it is of the Conservation Area, and this element is specifically referred to in the LVIA. I have placed limited weight upon the *Malvern Town Neighbourhood Plan* submitted to me because the appeal site lies outside of its boundary and that it has yet to be subject to a local referendum. Nevertheless, it does highlight the value of views of the hillside from the areas below, notwithstanding that the proposal would not puncture the profile of the ridgeline from such viewpoints.
20. The LVIA indicates that in the summer months tree cover would screen the proposed development, and in winter there would be glimpses of it. From my observations in springtime, I consider that even though the proposed development would be tiered and set back, it would still appear as significantly larger and bulkier than the dwellings around it on the hillside. This, and the more extensive glazing form than the buildings around it would unduly draw attention to it from views looking up at the slope from the areas below such as from Malvern Common and the streets within the housing development at Fruitlands. I have not observed the appearance of the hillside at night, but consider that the extensive glazing cover of the proposal would have potential to cause harm to the character and appearance of the hillside given the existing pattern of domestic development. Given the extensive glazing the proposal could appear over dominant and prominent on the hillside and this does not weigh in favour of the scheme.
21. For the reasons set out above, I conclude that the proposed development would not conserve or enhance the special qualities of the AONB as required by the Framework and Policy SWDP23 of the SDWP.

Other considerations

22. The Framework is very clear that it is the Government's objective to significantly boost the supply of homes. The proposal would contribute an additional seven dwellings to housing supply in Malvern which would be a benefit to which I attach moderate weight, notwithstanding that it is not disputed that the Council can demonstrate a five year supply of housing land.
23. The proposal would bring economic benefits in terms of construction jobs and would replace buildings which both parties agree are in need of repair. It would also provide some environmental benefits in terms of energy efficiency compared to the existing buildings. The proposal has generated considerable support from local residents and I have taken these into account in arriving at my decision.

Other matters

24. The appellant has submitted a completed Section 106 agreement which seeks to provide contributions for affordable housing, public open space and recreation provision off site. The parties have also produced a joint statement which sets out the agreed position on those financial contributions. The submitted Section 106 agreement now resolves the Council's concerns. Since I am dismissing the appeal on other grounds, I do not need to consider the Section 106 agreement further. However, the provision of a financial contribution of around £400,000 for the provision of affordable housing off site weighs in favour of the scheme and a consideration to which I attach moderate weight.
25. The proposal received some positive comments from a planning officer at the pre-application stage in 2015 although I note that the written advice was cautioned that the views of the Council's Conservation Officer would have to be sought. It was also clearly stated in the letter that the advice was of one officer only and would not prejudice the Council's consideration of any future application.

Conclusion

26. I have found that the proposed development would be significantly harmful to the character and appearance of the Conservation Area and would not conserve or enhance the special qualities of the AONB.
27. Paragraph 196 of the Framework indicates that where a proposal would lead to less than substantial harm to a designated heritage asset, this harm should be weighed against the public benefit of the proposal including, where appropriate, securing its optimum viable use.
28. The proposal would provide some public benefits in terms of boosting housing supply, contributing to affordable housing provision, energy efficiency and assisting the local economy, but I consider that these would not outweigh the significant harm which I have found.
29. For the reasons set out above I conclude that the appeal should be dismissed.

Mike Worden

INSPECTOR